

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

JEFFREY LEE ROGERS

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Case No. 4:04cr95
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 19, 2010, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Glenn Jackson.

On January 25, 2005, Defendant was sentenced by the Honorable Richard A. Schell to sixty (60) months' custody followed by three (3) years of supervised release for the offense of Felon in Possession of a Firearm. On September 17, 2009, Defendant completed his period of imprisonment and began service of his supervised term.

On May 11, 2010, the U.S. Pretrial Services Officer executed a First Amended Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) defendant shall not commit another federal, state, or local crime (three allegations); and (2) defendant shall not possess a firearm, destructive device, or any other dangerous weapon (two allegations). The petition also alleged a violation of the standard condition that defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substances or any paraphernalia related to any controlled substances, except as prescribed by a physician. The Government agreed to dismiss the first two

allegations.

The petition alleges that Defendant committed the following acts with regard to allegations three, four, five and six: (1) Defendant was arrested on November 2, 2009, for public intoxication in Paris, Texas. On November 2, 2009, Defendant was convicted for this charge and given credit for time served; and (2) On November 4, 2009, warrants for two counts of aggravated robbery were executed for Defendant while in custody on the public intoxication charge. These offenses allegedly occurred on October 3, 2009, and November 2, 2009, in Lamar County, Texas. Defendant was sentenced to thirty-eight years to TDC. The petition was amended to also include Defendant's alleged new offense of aggravated assault against a public servant on March 29, 2010, in Paris, Texas.

Prior to the Government putting on its case, Defendant entered a plea of true to allegations three, four, five and six. The Court recommends that Defendant's supervised release be revoked. The Court finds the guideline range in this case is twenty-four (24) to thirty (30) months, but the maximum sentence allowed is twenty-four (24) months.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-three (23) months with no supervised release to follow.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 20th day of May, 2010.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE